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April 24, 2006

**Hand Delivered**

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

Janie C. I. Sheng  
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jsheng@klmg.com

Re: Docket No. AB-439 (Sub-No. 6X) - 216343  
Dallas Area Rapid Transit – Abandonment Exemption –  
In Collin County, Texas

~~Docket No. AB-585 (Sub-No. IX)~~  
~~Dallas, Garland and Northeastern Railroad – Discontinuance Exemption –~~  
~~In Collin County, Texas~~



Dear Secretary Williams:

Enclosed for filing in the above-captioned proceedings are an original and ten copies of the **Petition for Notice of Interim Trail Use and Rail Banking Pursuant to 16 U.S.C. §1247(d)**, dated April 24, 2006. A check in the amount of \$200, representing the appropriate fee for this filing, is also enclosed.

Dallas Area Rapid Transit (“DART”) respectfully requests waiver under 49 C.F.R. §1002.2(e) of the \$200 filing fee. DART is a political subdivision of the State of Texas organized under Chapter 452 of the Texas Transportation Code as a regional transportation authority. Under 49 C.F.R. §1002.2(e)(1), “filing fees are waived for an application or other proceeding which is filed by a federal governmental agency, or a state or local government entity.” DART respectfully submits that it is entitled to the fee waiver under 49 C.F.R. §1002.2(e)(1). DART is a political subdivision of the State of Texas; it is not a quasi-government corporation or government-subsidized transportation company. As part of its public mandate, DART is seeking Board authority for the issuance of a notice of interim trail use/rail banking (“NITU”) for possible future use of the rail corridor as part of a public transit corridor. DART is filing a request for the NITU in furtherance of this public purpose and the benefits will flow to the general public in the Dallas area, therefore, waiver of the filing fee is appropriate.

Please acknowledge receipt of this filing by countersigning the attached copy of this letter.

Should any questions arise regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.



Kirkpatrick & Lockhart Nicholson Graham LLP

Vernon A. Williams

April 24, 2006

Page 2

Respectfully submitted,

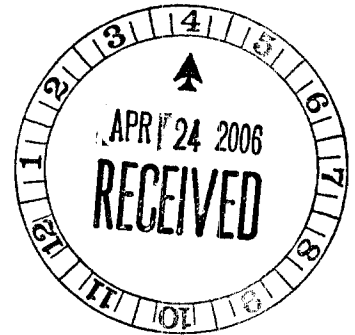
A handwritten signature in black ink, appearing to read 'Janie Sheng', with a long, sweeping horizontal stroke extending to the right.

Janie Sheng

**Counsel for Dallas Area Rapid Transit**

Enclosures

216343



BEFORE THE  
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB- 439 (SUB-NO. 6X)

DALLAS AREA RAPID TRANSIT  
- ABANDONMENT EXEMPTION -  
IN COLLIN COUNTY, TEXAS

~~DOCKET NO. AB-585 (SUB-NO. TX)~~

**FILED** ~~DALLAS, GARLAND AND NORTHEASTERN RAILROAD~~  
~~- DISCONTINUANCE OF SERVICE EXEMPTION -~~  
~~IN COLLIN COUNTY, TEXAS~~

APR 24 2006

SURFACE  
TRANSPORTATION BOARD

**PETITION FOR NOTICE OF INTERIM TRAIL USE AND  
RAIL BANKING PURSUANT TO 16 U.S.C. § 1247(d)**

ENTERED  
Office of Proceedings

APR 24 2006

Part of  
Public Record

**FEE RECEIVED**

APR 24 2006

SURFACE  
TRANSPORTATION BOARD

Edward J. Fishman  
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**ATTORNEYS FOR DALLAS  
AREA RAPID TRANSIT**

Dated: April 24, 2006

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB- 439 (SUB-NO. 6X)

DALLAS AREA RAPID TRANSIT  
– ABANDONMENT EXEMPTION –  
IN COLLIN COUNTY, TEXAS

DOCKET NO. AB-585 (SUB-NO. 1X)

DALLAS, GARLAND AND NORTHEASTERN RAILROAD  
– DISCONTINUANCE OF SERVICE EXEMPTION –  
IN COLLIN COUNTY, TEXAS

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**PETITION FOR NOTICE OF INTERIM TRAIL USE AND  
RAIL BANKING PURSUANT TO 16 U.S.C. § 1247(d)**

Pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, Dallas Area Rapid Transit (“DART”) hereby petitions the Surface Transportation Board (“STB” or “Board”) for the issuance of a notice of interim trail use/rail banking (“NITU”) covering the right-of-way underlying the rail line that is the subject of the above-referenced abandonment proceeding.

On March 27, 2006, DART and Dallas, Garland and Northeastern Railroad (“DGNO”) jointly filed a Notice of Exemption pursuant to 49 C.F.R. § 1152.50 for DART to abandon, and DGNO to discontinue service over, approximately 8.85 miles of railroad, between approximately milepost 281.65, near Plano, and approximately milepost 290.5, near Allen, in Collin County, TX (the “Subject Line”). A map of the Subject Line is attached. On April 14, 2006, the STB served and published in the Federal Register notice of the exemption which is scheduled to become effective on May 16, 2006.

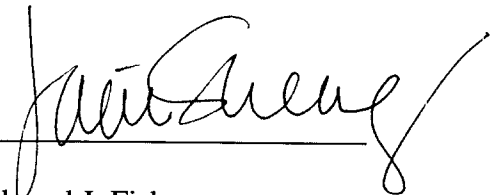
DART is a political subdivision of the State of Texas charged with developing and operating a public transit system in the greater Dallas, Texas area. The right-of-way underlying the Subject Line may be suitable for future use as part of a public transit corridor and DART, as indicated in the environmental/historic report accompanying DART's Notice of Exemption. At this point, DART fully anticipates using the rail corridor for public transit use at some point in the future. DART accordingly seeks issuance of a NITU under the Trails Act, 16 U.S.C. § 1247(d), to allow rail banking and such use of the right-of-way of the Subject Line. DART will retain ownership of the right-of-way, and as such will remain fully responsible for management and use of the right-of-way, payment of any applicable taxes, and any legal liability arising out of its ownership and use. See 49 C.F.R. § 1152.29(a)(2). DART acknowledges that interim trail use and rail banking of the Subject Line is subject to DART's continuing fulfillment of the financial responsibility obligations outlined above and the possible future restoration of rail service on the line. See 49 C.F.R. § 1152.29(a)(3).

In several previous instances (including three involving DART), the Board and its predecessor have authorized a railroad to rail bank a right-of-way in its own name where the property may be suitable for interim trail use and the railroad agrees to assume financial responsibility for the line. Dallas Area Rapid Transit – Abandonment Exemption – In Dallas County, TX, STB Docket No. AB 439 (Sub-No. 4X)(STB served Nov. 14, 2000); Dallas Area Rapid Transit – Abandonment Exemption – In Dallas and Collin Counties, TX, STB Docket No. AB-439 (Sub-No. 2X)(STB served May 19, 1999); Dallas Area Rapid Transit – Abandonment Exemption – In Dallas County, TX, STB Docket No. AB-439X (STB served Jul. 3, 1995). DART has similarly indicated here its willingness to retain ownership of, and remain responsible for, the right-of-way of the Subject Line. As in the prior cited cases, issuance of the requested

NITU would further the national policy of preserving railroad rights-of-way for future reactivation of rail service.

WHEREFORE, DART respectfully requests that this proceeding be reopened and that the Notice of Exemption served and published on March 27, 2006 exempting the abandonment of the Subject Line be modified to the extent necessary to implement interim trail use/rail banking, subject to the requirement that DART notify the Board if DART intends to discontinue rail banking and consummate the abandonment and further subject to the condition that interim trail use/rail banking is subject to the future restoration of rail service.

Respectfully submitted,

By: 

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**ATTORNEYS FOR DALLAS  
AREA RAPID TRANSIT**

Dated: April 24, 2006

